

§ 19.455

27 CFR Ch. I (4–1–12 Edition)

Type of product	Purpose of return	Conditions
		(ii) If recovered articles need to be redistilled, the DSP must be authorized to produce or process spirits. (iii) Returns must be in accordance with part 20 of this chapter. To a DSP authorized to produce or process spirits.
(d) Articles manufactured under part 20 of this chapter and spirits residues from manufacturing processes.	(1) For recovery by redistillation ....  (1) For redistillation .....	To any DSP authorized to produce or process.
(e) Specially denatured spirits withdrawn free of tax for export under part 28 of this chapter.	(2) For subsequent lawful withdrawal.	To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(f) Tax-free spirits withdrawn under part 22 of this chapter.	(1) For redistillation .....	(i) To any DSP authorized to produce or process.
	(2) For subsequent lawful withdrawal.	(ii) To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(g) Recovered tax-free spirits withdrawn under part 22 of this chapter.	(1) For redistillation .....	(i) To any DSP authorized to produce or process.
	(2) For restoration (not including redistillation).	(ii) To any DSP. The DSP proprietor must file a consent of surety, TTB F 5000.18, to extend the terms of the operations or unit bond to cover the return of spirits.
(h) Spirits withdrawn without payment of tax under part 28 of this chapter for export, for transfer to a customs bonded storage, manipulation, or manufacturing warehouse, for deposit in an FTZ, or for use on vessels or aircraft, and not so exported, transferred, deposited, or used.	(1) For redistillation .....	(i) For (1)—To any to DSP authorized to produce or process spirits.
	(2) For later lawful removal .....	(ii) For (2)—To the bonded premises from which withdrawn for later lawful removal. (iii) For (1) and (2)—Returns must be made in accordance with the provisions of part 28 of this chapter.
(i) Wine spirits withdrawn without payment of tax for use in wine production.	(1) Any lawful purpose .....	(i) To any DSP.  (ii) The proprietor must obtain approval as provided in § 19.403. (iii) Removal of wine spirits from a winery must be in accordance with part 24 of this chapter.
(j) Spirits withdrawn without payment of tax for research, development, or testing.	(1) For destruction, or return to containers, or return to the distilling system.	(i) To the DSP from which the spirits were withdrawn.

(19 U.S.C. 81(c), 26 U.S.C. 5001, 5062, 5066, 5214, 5215, 5223, 5273, 5373)

[T.D. TTB-92, 76 FR 9090, Feb. 16, 2011, as amended by T.D. TTB-92a, 76 FR 19908, Apr. 11, 2011]

**§ 19.455 Return of spirits withdrawn for export with benefit of drawback.**

(a) Subject to the provisions of §§ 28.197 through 28.199 of this chapter, whole or partial shipments of spirits withdrawn for export with benefit of drawback may be returned to:

(1) The bonded premises of the distilled spirits plant, pursuant to § 19.452; or

(2) To a wholesale liquor dealer or taxpaid storeroom.

(b) Claims for export drawback filed by proprietors on form TTB F 5110.30 which include the returned spirits shall be reduced by the amount of tax paid or determined on the returned spirits.

(26 U.S.C. 5215)

**§ 19.457 Receipt of spirits abandoned to the United States.**

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a distilled spirits plant for denaturation or for redistillation and denaturation, provided

that the plant is authorized to denature or redistill and denature spirits. The proprietor must gauge the spirits upon receipt and must keep the spirits apart from all other spirits or denatured spirits until denatured.

(26 U.S.C. 5243)

#### RULES FOR VOLUNTARY DESTRUCTION

##### § 19.459 Voluntary destruction.

(a) *General.* A proprietor may voluntarily destroy spirits, denatured spirits, articles, or wines on bonded premises as provided in this section. There is no tax liability on spirits, denatured spirits, articles, or wines destroyed in accordance with this section.

(b) *Wine notice.* A proprietor may destroy wine held on bonded premises only after the proprietor has filed a notice of intent to destroy with the appropriate TTB officer stating the kind and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after the filing of the notice.

(c) *Gauging.* A proprietor must gauge all spirits, denatured spirits, articles, or wines to be destroyed. The proprietor may establish the gauge of spirits in bottles on the basis of legible case markings and label information in accordance with § 19.286. The proprietor must individually count bottles in partial cases.

(d) *Destruction off bonded premises.* If a proprietor intends to remove spirits, denatured spirits, articles, or wines from bonded premises in order to destroy them at a location off bonded premises, the proprietor must file a consent of surety to cover the removal. When the destruction takes place off plant premises, the proprietor must comply with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor must record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.617.

(26 U.S.C. 5008, 5370)

#### Subpart R—Losses and Shortages

##### § 19.461 Losses and shortages in general.

(a) *Allowable losses and shortages.* Except as otherwise provided in paragraph (b) of this section, TTB will not collect tax on spirits, denatured spirits, or wines that are lost, destroyed, or otherwise unaccounted for while in bond, and if the tax has already been paid, TTB will refund the tax.

(b) *Exceptions.* TTB will collect the tax in the case of:

(1) Theft, unless the appropriate TTB officer finds that the theft occurred without connivance, collusion, fraud or negligence on the part of the proprietor, owner, consignor, consignee, bailor, or carrier, or any employee or agent of any of them;

(2) Voluntary destruction carried out other than as provided in subpart Q of this part;

(3) An unexplained shortage of bottled spirits.

(c) *Burden of proof.* When it appears that a theft occurred, the burden of proof will be on the proprietor or other person liable for the tax to establish to the satisfaction of the appropriate TTB officer that the theft did not result from connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailor, or carrier, or any employee or agent of any of them.

(d) *Claims.* Claims for losses and shortages allowable under this section must be filed in accordance with the provisions of subpart J of this part.

(e) *Limitations.* TTB will abate, remit, credit, or refund taxes on spirits, denatured spirits, or wines lost by theft only to the extent that the claimant is not indemnified against, or recompensed for, the taxes paid or owed.

(26 U.S.C. 5008, 5370)

##### § 19.462 Determination of losses in bond.

(a) *Times for determining losses.* A proprietor must determine at any of the following times whether a loss of spirits, denatured spirits, or wines has occurred:

(1) Each time a tank or bulk conveyance is emptied;